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U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:
W.R. GRACE & CO., et al.,
Debtor.

) Case No. 01-1139 (JKF)
) Claim Number: 2281
) Re: Docket Nos. 5527, 5637, 5685,
) 7961, 8070 & 8178
) CLAIMANT'S REPLY TO DEBTORS'
) OPPOSITION TO MOTION FOR SUMMARY
) JUDGEMENT AND CROSS-MOTION FOR
SUMMARY JUDGMENT

Peter P. Pearson ("Claimant"), per Federal Rules of Civil Procedure, replies in full to the Debtors' opposition to Mr. Pearson's Motion for Summary Judgment and Cross-Motion for Summary Judgment. Notwithstanding the contention in Debtors' memorandum, they have provided NO tangible or empirical evidence to support their position that Mr. Pearson was not permanently harmed, nor tangible or empirical evidence to support their position that they followed Federal law in their capacity as an employer with respect to hazardous chemicals at their disposal in a workplace environment. Summary judgment must be awarded to Claimant as a matter of law and fact.

Respectfully Submitted this 30TH day of November, 2005.

By: _____

Peter P. Pearson

REPLY TO MEMORADUM

- 1) The Debtors' would contest that "Claimant fails to provide any evidence of actual harm caused by the exposure to any materials used while working for the Debtors". Claimant provided the names of doctors which saw Claimant well before the claim was filed, as with a medical review from a qualified doctor which in fact did note a problems with joints on Claimant's hands, being "legally blind at 20/200" as a result of chemical exposure and a serious skin cancer type lesion on the right forehead, (refer to "Claimant's Production of Documents and Answer to Interrogatories"). Not only are the Debtors' inaccurate in their position to the Court, they appear to also be misleading the court in the evidence they have.
- 2) The Debtors' would contest that "Claimant has failed to produce any actual medical documentation...". In direct contrast to fact, Claimant complied by providing a medical release affidavit and the names of doctors who he saw regarding this claim. The Court is asked to read the FULL report from the "two (2) page report" as put forth from a skilled medical doctor at the University of Arizona Campus Health Service. The Debtors' are being less then genuine in their assertion.
- 3) Finally, the Debtors' would contest that Claimant is some how barred from relief based upon a subjective affidavit from a current employee that could find himself in an awkward position with his employment if he revealed all the facts. Claimant gave notice to his direct supervisor Dan Kuball and later Ken Porter on several occasions regarding the workplace conditions and lack of safety equipment, Refer to the letter from the "Thomas & Mac Center in Las Vegas Nevada, (See: "Response to Debtors' Fifth Omnibus Objection", Exhibit 4). The Debtors' have provided no factual evidence that they, one of the largest conglomerate corporations in the world, complied with U.S. Federal law with respect to EPCRA or OSHA compliance. The have provided NO fractural evidence that they provided

1 training in how to read MSDS forms or how to protect against the chemicals
2 used. Debtors' have provided no standard training documents, class time
3 documentation, receipts for safety equipment or anything to support their
4 claim that they provided such. The Debtors' have failed in their bid to
5 establish that Claimant's Motion for Summary Judgment not be granted.

6
7 **Request to Deny Debtors' Motion for Summary Judgment**

8 1.. Debtors' would attest that Claimant has "no standing to assert a claim
9 under EPCRA". However, this is a baseless claim. The Bankruptcy Court
10 issues an order (not sure when) mandating that anyone who had a claim
11 against W.R. Grace has a set number of days to file a claim, or be forever
12 barred from filing a claim. This notice was published in several national
13 magazines and newspapers. Claimant would hold that he is in accord with
14 EPCRA § 11046(a)(1)(A). The Debtors' argument would be valid if such a
15 public notice was not given, but the order was clear and gave a time frame
16 to bring a cause of action against Debtors'.

17 2. Debtors' would attest that Claimant has no standing under the Arizona
18 Workers Compensation Statue. However, this too is a baseless claim.
19 Claimant worked in several western states including Nevada, California,
20 Texas, and New Mexico. Refer to the letter from the "Thomas & Mac Center
21 in Las Vegas Nevada, (See: "Response to Debtors' Fifth Omnibus Objection",
22 Exhibit 4). Arizona was the primary state, but not the only state. With
23 respect to Arizona, Claimant relies upon the argument as put forth in the
24 MSJ regarding "doctrine of adverse domination". The Debtors' would also
25 attest that "Claimant fails to provide any evidence that demonstrates that
the alleged incidents were done knowingly and purposely with the direct
object of injuring another." Nothing could be further from the truth,
Claimant provided proof of Debtors' willful misconduct with the letter
submitted in August 13, 1991 to Ken Porter regarding the toxic materials

1 on a job site in an unsafe manner, which leads to the conclusive fact that
2 W.R. Grace did not care or was concerned with the employees working, or
3 the fact that these materials were simply running down the city drain.
4 Further evidence is in the very fact that Debtors have established NO
5 proof in the standardized training, proof of safety equipment, or evidence
6 that they were in compliance with Federal law. That fact alone is enough to
7 state that one of the largest corporation in the world refused to comply
8 with Federal law that caused injury to a human, by W.R. Grace's willful
misconduct in the hopes that they would not be caught.

9 3. Debtors' would attest that Claimant's claim is some how time barred. Even
10 if this is considered a viable argument, the Court must consider the
11 public posting that gave notice to all persons' that could have a claim
12 against W.R. Grace a set time to file, or forever be barred from doing so.
13 Debtors' are without merit on this issue, the public was given ample
14 notice to file a claim, Mr. Pearson chose to exercise his right to correct
15 the harm caused him by W.R. Grace, the Debtors' cannot suddenly cry foul
after the Court gave due notice.

16 4. The Debtors' position is without merit on the Fourteenth Amendment
17 argument. Creditor will put this in the hands of the Court.

18 5. Finally, the Debtors have refused to address the other causes of action as
19 spelled out in Claimant's "Response to Debtors' Fifth Omnibus Objection",
20 by this virtue they has conceded these claims.

21 Conclusion

22
23 6. Debtors' have failed in their bid to establish why the claims should be
24 disbarred or expunged. In fact, they have conceded several of these
25 claims. The Court must rule in accord to fact and law; the Debtors' have
failed in their bid to present a case, and take nothing. Claimant has

1 established his position and asks that the Court review ALL the facts
2 presented and grant Summary Judgment for the Creditor. The fact that Mr.
3 Pearson does not have the enormous corporate legal team behind him, in
4 fact it is just him, the Court is asked to overlook any minor errors in
5 the presentation of this case
6
7
8

9 Respectfully Submitted this 30th Day of November, 2005.

10
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15 Original and three (3) copies
16 Of the forgoing sent this
17 30th day of November, 2005.

18 To:

19 United States Bankruptcy Court
20 District of Delaware
Attn: Clerk of the Court
824 Market Street
21 Wilmington, Delaware. 19801

22 **Certified Mail Number:**
23

24 One Copy of the forgoing
25 Sent this 30th day of November, 2005.

1 To:

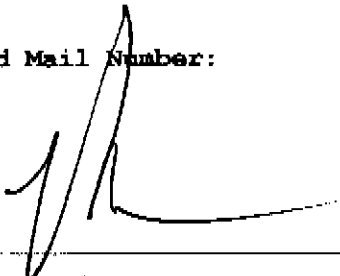
2 KIRKLAND & ELLIS LLP
3 Mr. James H.M. Sprayregen, P.C.
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200 East Randolph Drive
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7
8 PACHULSKI, STANG, ZIEHL, YOUNG, JONES &
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